

REMARKS

1. Claims 1-59 are pending in this application. Reconsideration and further prosecution of the above-identified application are respectfully requested in view of the amendments and discussion that follows.

The abstract has been objected to. The title has been objected to. Claims 5 and 38 have been rejected under 35 U.S.C. §112, first paragraph. Claims 1, 3-10, 15, 17, 18, 20, 21, 23-28, 31-33, 36-40, 44-50, 52, 54, 55 and 57-59 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Pat. No. 6,707,821 to Shaffer et al. Claims 2, 11-14, 16, 19, 2, 29, 30, 34, 35, 41-43, 41 and 53 have been rejected under 35 U.S.C. §103(a) as being obvious over Shaffer et al. After a careful review of the specification and claims (as amended), it has been concluded that the restrictions are in error and the restrictions are, therefore, traversed.

2. The abstract has been objected to. In response, the abstract has been modified as suggested.

3. Claims 5 and 38 have been rejected under 35 U.S.C. §112, first paragraph. In response, the specification has been modified to provide support for claims 5 and 38.

4. Claims 1, 3-10, 15, 17, 18, 20, 21, 23-28, 31-33, 36-40, 44-50, 52, 54, 55 and 57-59 have been rejected as being anticipated by Shaffer et al. In response, independent claims 1, 15, 20, 31, 36, 44, 56, 57, 58 and 59 have been further limited to the context of a voice over packet network telephone. Support for a voice over packet network

telephone is found throughout the specification and is identified by the reference numbers 24, 30, 35 and 36 in FIG. 2 and 50 in FIG. 3.

Independent claims 1, 15, 20, 31, 36, 44, 56, 57, 58 and 59 have been further limited to the method step of (and apparatus for) "receiving data packets from a plurality of data processing devices". This limitation finds support in FIG. 3 where a computer 58 and a PDA are shown connected to the VOPN phone 50. Additional support is provided in original claim 5 where the data processing device that receives data packets of claim 1 further comprises "a laptop computer, a personal digital assistant and a cellular telephone.

Independent claims 1, 15, 20, 31, 36, 44, 56, 57, 58 and 59 have been further limited to "assigning a first priority level to the voice packets a second priority level to data packets from a first data processing device of the plurality of data processing devices and a third priority level to data packets from a second data processing device of the plurality of data processing devices where the first, second and third priority levels are all different". These limitations are supported by the exemplary four level priority scheme discussed on page 5. Support for the first, second and third priority levels all being different finds support in the "highest, high, medium and low" priority levels discussed on page 5.

Independent claims 1, 15, 20, 31, 36, 44, 56, 57, 58 and 59 have been further limited to the method step of (and apparatus for) "sending the data packets, including the smaller data packets if divided, and the voice packets to the packet network based upon the respective priorities of the voice packets and the data packets". This limitation


of processing packets based upon their respective priorities finds support on the bottom of page 5 of the specification.

In contrast, Shaffer et al. shows only a single data processing unit 78 connected to an IP phone 80. In addition, since Shaffer et al. has only a single data processing unit, Shaffer et al. would not have any reason to have or use at least three different priority levels. Since Shaffer et al. fails to teach at least these claim elements, Shaffer et al. can no longer be said to anticipate the claimed invention. Since Shaffer et al. fails to anticipate the claimed invention, the rejections are now improper and should be withdrawn.

5. Claims 2, 11-14, 16, 19, 2, 29, 30, 34, 35, 41-43, 41 and 53 have been rejected as being obvious over Shaffer et al. However, as demonstrated above, Shaffer et al. fails to teach or suggest the use of a VOPN phone with a plurality of data processing devices connected to the VOPN phone or the use of three different priority levels. Since Shaffer et al. fails to teach or suggest these claim elements, the rejections are now improper and should be withdrawn.

6. Allowance of claims 1-59, as now presented, is believed to be in order and such action is earnestly solicited. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, he is respectfully requested to telephone applicant's undersigned attorney.

Respectfully submitted,
WELSH & KATZ, LTD.

By 
Jon P. Christensen
Registration No. 34,137

January 21, 2005
WELSH & KATZ, LTD.
120 South Riverside Plaza
22nd Floor
Chicago, Illinois 60606
(312) 655-1500